



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ESA-10-2024(O&M)
Reserved on: 22.05.2025
Date of decision:28.05.2025

The Faridkot Central Cooperative Bank Limited
Versus
Vijay Bansal and others

..Appellant
..Respondents

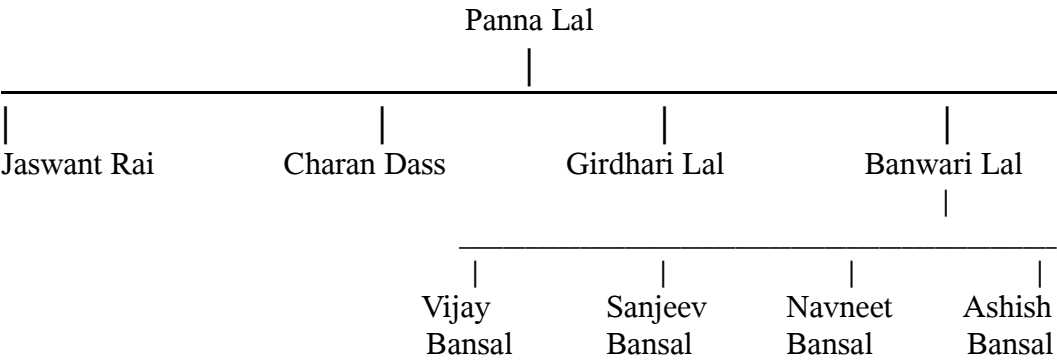
CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Santosh Sharma, Advocate for the appellant

Mr. Ashok Singla, Advocate
Mr. Ankush Singla, Advocate
for respondent no.1 to 4

ANIL KSHETARPAL, J.

1. The decree-holder assails the correctness of the concurrent order passed by the Executing Court, which in appeal, has been affirmed by the appellate authority while allowing the objections filed by the respondents no. 1 to 4 and dismissing the execution petition filed by the appellant.
2. The following genealogy illustrates the relationship of the parties:-

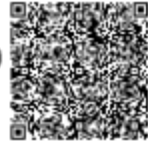




3. Panna Lal was inducted as tenant in the shop of the appellant-Bank. Thereafter, Panna Lal died. Bank filed petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking eviction of the tenant. Jaswant Rai, Charan Dass, Girdhari Lal three sons of Panna Lal were impleaded as respondents. The eviction was sought on the ground of bonafide personal necessity, which was though dismissed by the Rent Controller on 19.12.2006 but reversed by the appellate authority on 28.11.2008. The revision petition filed by Jaswant Rai, Charan Dass, Girdhari Lal in the High Court was dismissed on 23.01.2014 while upholding the eviction order. Execution petition was filed for implementation of the eviction order in which Vijay Bansal and others heirs of Banwari Lal filed objections, which have been allowed by the Rent Controller primarily on the ground that on inheritance of tenancy, Banwari Lal became statutory tenant and objectors were not party to the eviction order passed by the Rent Controller. Hence, it cannot be executed against them.

4. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. After the death of original tenant, his heirs succeed to the tenancy as joint tenant and not as tenants in common. The tenancy inherited by them is a single tenancy and there is no splitting of tenancy amongst the heirs. This position of law is no longer res integra in view of a larger Bench judgment in **Harish Tandon vs. Additional District Magistrate, Allahabad UP and others (1995) 1**



SCC 537 which was followed in **Suresh Kumar Kohli vs. Rakesh Jain and another 2018 AIR SC 2708**. Para 22 of Harish Tandon's case (supra) is extracted as under:-

*“22. The attention of the learned Judges constituting the Bench in the case of H.C. Pandey v. G.C. Paul [(1989) 3 SCC 77] was not drawn to the view expressed in the case of Mohd. Azeem v. Distt. Judge [(1985) 2 SCC 550 : (1985) 3 SCR 906] . There appears to be an apparent conflict between the two judgments. It was on that account that the present appeal was referred to a Bench of three Judges. According to us, it is difficult to hold that after the death of the original tenant his heirs become tenants-in-common and each one of the heirs shall be deemed to be an independent tenant in his own right. This can be examined with reference to Section 20(2) which contains the grounds on which a tenant can be evicted. Clause (a) of Section 20(2) says that if the tenant is in arrears of rent for not less than four months and has failed to pay the same to the landlord within one month from the date of service upon him of a notice of demand, then that shall be a ground on which the landlord can institute a suit for eviction. Take a case where the original tenant who was paying the rent dies leaving behind four sons. It need not be pointed out that after the death of the original tenant, his heirs must be paying the rent jointly through one of his sons. Now if there is a default as provided in clause (a) of sub-section (2) of Section 20 in respect of the payment of rent, each of the sons will take a stand that he has not committed such default and it is only the other sons who have failed to pay the rent. **If the concept of heirs becoming independent tenants is to be introduced, there should be a provision under the Act to the effect that each of the heirs shall pay the proportionate rent and in default thereto such heir or heirs alone shall be liable to be evicted. There is no scope for such division of liability to pay the rent which was being paid by the original tenant, among the heirs as against the landlord what the heirs do inter se, is their concern. Similarly, so far as ground (b) of sub-section (2) of Section 20, which says that if the tenant has wilfully caused or permitted to be caused***



substantial damage to the building, then the tenant shall be liable to be evicted; again, if one of the sons of the original deceased tenant wilfully causes substantial damage to the building, the landlord cannot get possession of the premises from the heirs of the deceased tenant since the damage was not caused by all of them. Same will be the position in respect of clause (c) which is another ground for eviction, i.e., the tenant has without the permission in writing of the landlord made or permitted to be made, any such construction or structural alteration in the building which is likely to diminish its value or utility or to disfigure it. Even if the said ground is established by the landlord, he cannot get possession of the building in which construction or structural alterations have been made diminishing its value and utility, unless he establishes that all the heirs of the deceased tenant had done so. Clause (d) of sub-section (2) of Section 20 prescribes another ground for eviction — that if the tenant has without the consent in writing of the landlord, used it for a purpose other than the purpose for which he was admitted to the tenancy of the building or has been convicted under any law for the time being in force of an offence of using the building or allowing it to be used for illegal or immoral purposes; the landlord cannot get possession of the building unless he establishes the said ground individually against all the heirs. We are of the view that if it is held that after the death of the original tenant, each of his heirs becomes independent tenant, then as a corollary it has also to be held that after the death of the original tenant, the otherwise single tenancy stands split up into several tenancies and the landlord can get possession of the building only if he establishes one or the other ground mentioned in sub-section (2) of Section 20 against each of the heirs of original tenant. One of the well-settled rules of interpretation of statute is that it should be interpreted in a manner which does not lead to an absurd situation.”

6. Similarly, in *H.C.Pandey vs. G.C.Paul* (1989)3 SCC 77

it was also held that inheritance, after the death of the tenant, the heirs would inherit the tenancy as joint tenants and not as tenants-in-



common. In such circumstances, three out of four joint tenants were impleaded in the rent petition, who contested the petition not only before the Rent Controller but also before the appellate authority as well as in the High Court.

7. Undoubtedly, Banwari Lal became a joint statutory tenant alongwith his three other brothers, who were party to the eviction petition. Learned counsel representing the respondent has relied upon the judgment passed in **Textile Association (India) Bombay Unit vs. Bal Mohan Gopal Kurup (1990) 4 SCC 700** to submit that if one of the heirs is not heard then such decree is not binding on the son who was not impleaded.

8. This Court has carefully read the judgment. In fact, it is a short order passed by the Supreme Court in the peculiar facts of the case. Gopal Kurup was in occupation of the premises in question. He left behind his widow, two sons and daughters. The suit filed was decreed ex-parte apparently on the ground of failure of payment of rent. The court in the facts of the case set aside the ex-parte decree and provided opportunity to the son to contest the case. Hence, the aforesaid judgment is in entirely different context. Hence, the same is not applicable to the present case. Similarly, there is no substance in the argument of the learned counsel with regard to inheritance of tenancy rights while relying upon Five Judges Bench judgment in **Smt. Gian Devi Anand vs. Jeevan Kumar (1985) 2 SCC 683**. In this case, the Supreme Court examined the effect of death of statutory tenant of commercial premises. The court held that heirs of the



deceased statutory tenant inherits tenancy and the heirs cannot be evicted by forceful means. Hence, this is also not applicable to the facts of the case.

9. Learned counsel representing the respondent also submits that during the pendency of the rent petition, application for impleadment of Banwari Lal was filed, which was allowed but no amended petition was filed by the Bank. Be that as it may. Once three out of four joint tenants were impleaded and order of eviction has become final, heirs of Banwari Lal cannot claim any independent right because they became joint tenants and not tenants-in-common.

10. Learned counsel representing the respondent submitted that the appellant-Bank failed to press the appeal before the First Appellate Authority, hence, the present appeal is not maintainable. This Court has carefully read the observations made by the appellate authority in para 7 and 9 of the impugned judgment. The appeal filed by the appellant-Bank has been dismissed on merits and not as withdrawn or as not pressed. Failure of the counsel to answer the legal question posed by the court will not amount to failure to press the appeal.

11. In any case, in the rent petition, Charan Dass exclusively being in possession of the tenanted premises tendered the arrears of rent. Charan Dass received the summons when executing court sent summons. In other words, when the court official visited to serve notice, Charan Dass alone was in possession of the tenanted premises.



Thus, it is evident that Charan Dass was in exclusive possession of the property.

12. Resultantly, the impugned orders passed by the courts below are not sustainable, hence, the same are set aside and the objections filed by respondents no.1 to 4 shall stand dismissed.

13. The appeal stands allowed.

14. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

28.05.2025

rekha	
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No